



September 18, 2019

Special Master Thomas P. Scrivo, Esq.
O'Toole Scrivo, LLC
14 Village Park Road
Cedar Grove, New Jersey 07009

**Re: *Occidental Chemical Corp. v. 21st Century Fox America, Inc., et al.*;
No. 2:18-cv-11273-MCA-JAD**

Dear Special Master Scrivo:

It was a pleasure meeting you at the August 27 Status Conference. We write on behalf of the Small Parties Group ("SPG") in advance of the September 19, 2019 meeting, to respectfully request the addition of the following topics to the meeting agenda:

- (1) Plaintiff OxyChem's recent additional pleadings – styled as "Answer [to Counterclaims], Additional Defenses, Counterclaim and Crossclaim Against All Defendants" (ECF Nos 763-833) – filed on Friday, September 13; and
- (2) Threshold issues regarding the scope of the parties and claims.

1. OxyChem's September 13 Additional Pleadings

OxyChem's answers to Defendants' counterclaims (those counterclaims were filed together with Defendants' answers to OxyChem's complaint) have appended additional substantive claims by OxyChem against Defendants, styled as counterclaims and crossclaims. An example of OxyChem's new pleading, ECF No. 763, is attached as Exhibit A; the new counterclaims and crossclaims begin at the bottom of page 36.

The thrust of OxyChem's new claims is that OxyChem now seeks relief with respect to the entire 17-mile stretch of the Passaic River below Dundee Dam; previously its claims concerned the Lower 8.3 Miles of the Passaic River and River Mile 10.9. The SPG would like to discuss at the upcoming meeting a short extension of the date by which Defendants must respond to OxyChem's new claims (the current date is October 3; we request October 28). Defendants are evaluating potential grounds on which to move pursuant to Rule 12(b)(6) to dismiss OxyChem's new claims; the requested extension is necessary to facilitate that evaluation and potential motion practice. Additionally, the SPG would like to discuss at the upcoming meeting the impact of OxyChem's new claims on overall discovery and scheduling.

2. Threshold Issues

Defendants also respectfully request the addition of the topic of threshold issues, such as Defendants' proposed motions and targeted discovery, to the meeting agenda. As discussed in Defendants' August 26, 2019 letter and at the August 27 Status Conference, there are certain threshold issues that, if resolved, will better define the parties and claims in this matter.

OxyChem's new pleadings highlight the need to address these threshold issues expeditiously. For example, OxyChem continues to assert that Defendants are mistaken that it is the "successor-in-interest to 'all of the liabilities of' Diamond Alkali Company" and other OxyChem predecessor companies. (ECF No. 763 at 2.)

* * *

We look forward to discussing these and other issues at the meeting on September 19.

Respectfully submitted,

/s/ Jeffrey D. Talbert

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